

Message Text

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E.O. 11652: N/A
TAGS: BTIO, RO
SUBJ: MORE ON U.S.-ROMANIAN TAX CONVENTION
REF: BUCHAREST 7157

1. TWO OTHER U.S. COMPANIES INFORMED EMBASSY OF PROBLEMS THEY HAVING IN NEGOTIATING LICENSING AGREEMENT WITH ROMANIANS BECAUSE OF WAY IN WHICH GOR INTERPRETING TAX CONVENTION. GENERAL MANAGER OF UOP PROCESSES INTERNATIONAL INC. (LONDON BASED SUBSIDIARY OF UOP) TOLD COMATT ON DEC. 13 THAT FTO ROMCHIM INSISTING ON INSERTING STATEMENT IN CONTRACT TO EFFECT THAT 15 PERCENT TAX WHICH APPLIES TO ROYALTY PAYMENT ALSO BE APPLIED TO SERVICES SUCH AS DESIGN AD ENGINEERING PROVIDED IN CONNECTION WITH LICENSE. UOP POSITION IS THAT SERVICES FORM PART OF ITS TOTAL COST OF DOING BUSINESS ON A PROJECT AND AS SUCH IS ALREADY DISCOUNTED FROM U.S. TAXES. IF GOR INSISTS ON THIS PROVISION IN CONTRACT, THEN UOP WILL HAVE TO INCREASE PRICE OF ITS SERVICE, POSSIBLY MAKING IT UNCOMPETITIVE WITH FOREIGN COMPETITION. ON DEC. 16 COLLINS OFFICIALS TOLD ECON COUNSELOR THEY HAVING SAME PROBLEM WITH FTO ELECTRONUM.

2. COMMENT: IT APPEARS ROMANIANS HAVE MISINTERPRETED PROVISION OF TAX CONVENTION CONCERNING ROYALTY AND HAVE EXTENDED IT TO INCLUDE SERVICES. UOP, COLLINS AND HOUDRY PROBLEMS (SEE REFTTEL) ARE INDICATIONS THAT GOR RECENTLY ISSUED INTERNAL DIRECTIVE PROVIDING RULES FOR HOW FTO'S SHOULD INTERPRET TAX CONVENTION IN WRITING UP OF CONTRACTS WITH U.S. FIRMS. WE HAVE RAISED POSSIBILITY OF MAJOR PROBLEMS FOR U.S. COMPANIES STEMMING FROM GOR INTERPRETATION OF TAX CONVENTION PROVISION ON ROYALTIES WITH ACHIM OF MFT. WE WOULD APPRECIATE RECEIVING DEPT GUIDANCE AS TO HOW WE SHOULD HANDLE FUTURE

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PAGE 02 BUCAR 07426 160931Z

ENQUIRIES FROM U.S. COMPANIES CONCERNING ROYALTY PROVISION OF U.S.-

ROMANIAN TAX CONVENTION. SECONDLY, WE WOULD APPRECIATE TREASURY
INTERPRETATION WHETHER DESIGN AND ENGINEERING SERVICES INCIDENTAL
TO LICENSE BUT SPEARATE FROM IT ARE VIEWED BY USG AS INDUSTRIAL
ROYALTY AS DEFINED BY ARTICLE 12 OF TAX CONVENTION. IF IT IS
TREASURY'S INTERPRETATION THAT THESE ARE NOT AN INDUSTRIAL ROYALTY
THEN WE WOULD APPRECIATE TREASURY'S INSTRUCTIONS FOR A FORMAL
REPRESENTATION TO GOR.
BARNES

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